

REMARKS

Reconsideration of this application is respectfully requested in light of the foregoing amendment and the following remarks.

Claim 8 has been amended solely for the purpose of correcting a typographical error, and thus, not for reasons related to patentability.

Claims 1-8 are now pending in this application. Claims 1 and 5 are the independent claims.

I. The Indefiniteness Rejection

Claims 8 was rejected under 35 U.S.C. §112, second paragraph, as lacking sufficient antecedent basis for the limitation “said step of selectively inhibiting” in line 1. Because of the amendment of claim 8, claim 8 now has sufficient antecedent basis for the limitation “said step of selectively inhibiting” in line 1. Therefore, reconsideration of this rejection is respectfully requested.

II. The Anticipation Rejection

Claims 1-4 were rejected as anticipated under 35 U.S.C. §102(e). In support of the rejection, Sharp (U.S. Publication No. 2002/0131366 A1) was cited. This rejection is respectfully traversed.

The 37 CFR § 1.131 Declaration of the named inventor of the present application, Mr. Craig DeCaluwe, filed herewith, evidences a conception date prior to the filing date of Sharp and diligence up to the filing of the present application. Accordingly, Sharp is not available as a reference under 35 U.S.C. §102(e). Consequently, reconsideration and withdrawal of this rejection is respectfully requested.

III. The Obviousness Rejection

Claims 5-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over various combinations of Sharp (U.S. Publication No. 2002/0131366 A1) in view of Nagami (U.S. Patent No. 5,835,710). These rejections are respectfully traversed.

Claim 8 was rejected under 35 U.S.C. § 103(a) as being unpatentable over various combinations of Sharp (U.S. Publication No. 2002/0131366 A1) in view of Nagami (U.S. Patent No. 5,835,710) and/or Jain (U.S. Patent No. 5,491,801). This rejection is respectfully traversed.

The 37 CFR § 1.131 Declaration of the present application, filed herewith, evidences a conception date prior to the filing date of Sharp and diligence up to the filing of the present application. Accordingly, Sharp is not available as a reference under 35 U.S.C. § 103(a). Consequently, reconsideration and withdrawal of this rejection is respectfully requested.

Without Sharp, none of the remaining cited references, either alone or in any combination, establish a *prima facie* case of obviousness. “To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant’s disclosure.” See MPEP § 2143.

Each of independent claims 1 and 5 recite “tabulating at said first IP data switching system at least the number of IP data packets received from a particular IP source address during a first time interval, thereby forming a count of IP data packets from a particular source; storing said count of IP data packets in a memory device for subsequent processing”. Neither Nagami nor Jain expressly or inherently teach or suggest “tabulating at said first IP data switching system at least the number of IP data packets received from a particular IP source address during a first

time interval, thereby forming a count of IP data packets from a particular source; storing said count of IP data packets in a memory device for subsequent processing”.

Thus, even if combinable or modifiable, the cited references do not expressly or inherently teach or suggest **every** limitation of the claims.

Because no *prima facie* rejection of any independent claim has been presented, no *prima facie* rejection of any dependent claim can be properly asserted. Consequently, reconsideration and withdrawal of these rejections is respectfully requested.

CONCLUSION

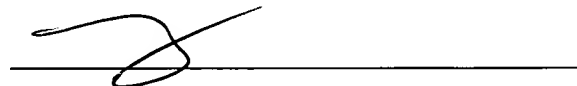
It is respectfully submitted that, in view of the foregoing amendments and remarks, the application as amended is in clear condition for allowance. Reconsideration, withdrawal of all grounds of rejection, and issuance of a Notice of Allowance are earnestly solicited.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. §1.16 or §1.17 to Deposit Account No. 50-2504. The Examiner is invited to contact the undersigned at 434-972-9988 to discuss any matter regarding this application.

Respectfully submitted,

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